

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BUTTE DIVISION**

GARY ORAM, JR.,

Plaintiff,

vs.

JAMES DOLAN, KEN  
PETERSON, and DON  
GULBERSON,

Defendants.

Cause No. CV 11-00026-BU-RFC-CSO

ORDER DENYING MOTION TO PROCEED  
PURSUANT TO RULE 26(a)(1)(B)(viii)

Pending is Plaintiff Gary Oram's "Motion to Proceed Pursuant to Rule 26(a)(1)(B)(viii)." *Court Doc. 19*. Oram contends this case is a proceeding ancillary to a proceeding in another court and is therefore exempt from initial disclosures. There is no indication in Oram's motion or otherwise why this matter should be considered an ancillary proceeding. This is an action brought pursuant to 42 U.S.C. § 1983 presenting a federal question over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331. It is not an ancillary proceeding.

Accordingly, the matter is not exempt from initial disclosure requirements of Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure. Moreover, it is not exempt from the discovery timing requirement set forth in Rule 26(d)(1) which provides that a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f).

Accordingly, IT IS HEREBY ORDERED that Oram's Motion to Proceed Pursuant to Rule 26(a)(1)(B)(viii) (*Court Doc. 19*) is DENIED. If Defendants have been served with discovery as indicated on Oram's Certificate of Service (*Court Doc. 21*), they are not required to respond until after the parties have conferred as required by Rule 26(f).

DATED this 5th day of December, 2011.

/s/ Carolyn S. Ostby  
United States Magistrate Judge